

## **REMARKS**

### **A. 35 U.S.C. § 102**

#### **1. Claim 1**

In the Office Action of September 21, 2005, claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Burkhardt et al. In order to clarify Applicant's invention, independent claim 1 has been amended to state that several angular inclinations of a scanning device in relation to at least one scale are detected and a value for a chronological progression of a change in angular inclination of the scanning device is determined. As described in Applicant's Specification with respect to the embodiments of FIGS. 1-4, an example of angular inclination is the quantity W, the amount of tilting of the scanning device relative scale or measuring direction X. Burkhardt et al. does not disclose either 1) the recited detecting several angular inclinations or 2) determining the recited value for a chronological progression of a change in angular inclination of the scanning device. Accordingly, claim 1 is not anticipated by Burkhardt et al. and so the rejection should be withdrawn.

Besides not being anticipated by Burkhardt et al., claim 1 is not rendered obvious by Burkhardt et al. since Burkhardt et al. does not suggest either 1) the recited detecting several angular inclinations or 2) determining the recited value for a chronological progression of a change in angular inclination of the scanning device. Without such suggestion, the claims should be deemed patentable over Burkhardt et al.

#### **2. Claims 16-19 and 23**

Claims 16-19 and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Burkhardt et al. In order to clarify Applicant's invention, independent claim 16 has been amended to state that the first module determines angular inclinations of a scanning device with respect to a

measuring direction and the second module determines a value for a chronological progression of several angular inclinations. Burkhardt et al. does not disclose either 1) the recited first module that determines angular inclinations or 2) the recited second module that determines a value for a chronological progression of several angular inclinations. Accordingly, claim 16 and its dependent claims are not anticipated by Burkhardt et al. and so the rejection should be withdrawn.

Besides not being anticipated by Burkhardt et al., claim 16 is not rendered obvious by Burkhardt et al. since Burkhardt et al. does not suggest either 1) having a first module that determines several angular inclinations or 2) having a second module that determining a value for a chronological progression of several angular inclinations. Without such suggestion, the claims should be deemed patentable over Burkhardt et al.

**B. 35 U.S.C. § 103**

**1. Burkhardt et al. and Hagl et al.**

Claim 20 was rejected under 35 U.S.C. § 103 as being obvious in view of Burkhardt et al. and Hagl et al. Claim 20 depends indirectly on claim 16. As mentioned above in Section A.2, Burkhardt et al. does not disclose nor suggest either 1) the recited first module that determines angular inclinations or 2) the recited second module that determines a value for a chronological progression of several angular inclinations. Hagl et al. does not cure the deficiencies of Burkhardt et al. since Hagl et al. does not suggest altering Burkhardt et al. to have 1) a first module that determines angular inclinations or 2) a second module that determines a value for a chronological progression of several angular inclinations. Without such suggestion, the rejection should be withdrawn.

**2. Burkhardt et al. and Schwaiger et al.**

Claim 22 was rejected under 35 U.S.C. § 103 as being obvious in view of Burkhardt et al.

and Schwaiger et al. Claim 22 depends indirectly on claim 16. As mentioned above in Section A.2, Burkhardt et al. does not disclose nor suggest either 1) the recited first module that determines angular inclinations or 2) the recited second module that determines a value for a chronological progression of several angular inclinations. Schwaiger et al. does not cure the deficiencies of Burkhardt et al. since Schwaiger et al. does not suggest altering Burkhardt et al. to have 1) a first module that determines angular inclinations or 2) a second module that determines a value for a chronological progression of several angular inclinations. Without such suggestion, the rejection should be withdrawn.

**C. Claims 2-15 and 21**

Applicant notes with appreciation that claims 2-15 and 21 have been indicated to contain allowable subject matter. Applicant notes that the Examiner has presented a statement of reasons for allowance regarding claims 2-15 and 21. Applicant traverses the statement to the extent that there are broader and/or other reasons for the allowance of the claims.

**CONCLUSION**

In view of the arguments above, Applicant respectfully submits that all of the pending claims 1-23 are in condition for allowance and seek an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an

interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the undersigned attorneys at (312) 321-4200.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.C. Freeman", written in a cursive style.

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